

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DIANA CAROL HEDRICK,

Plaintiff,

v.

**CIVIL ACTION NO. 3:13-CV-91
(JUDGE GROH)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. 18], filed on December 17, 2013, to which neither party filed objections. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the district court to review the recommendation under the standards that the district court believes are appropriate, and under these circumstances, the parties' right to de novo review is waived.

See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979).

Pursuant to Magistrate Judge Kaull's report and recommendation, as well as 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 6(d), objections were due fourteen plus three days after entry of the report and recommendation, or by January 13, 2014. The report and recommendation specifically stated that objections were to be filed within fourteen days after being served with a copy. Accordingly, because no objections

have been filed, this Court will review the report and recommendation for clear error.

In this case, Plaintiff filed a complaint on August 7, 2013. On October 21, 2013, Defendant Commissioner of Social Security filed its answer to the complaint and a copy of the transcript of the administrative record. Therefore, Plaintiff's motion for summary judgment and brief in support of her claim were due to be filed on or before November 21, 2013. Plaintiff did not timely file her motion or brief. Accordingly, on November 26, 2013, Magistrate Judge Kaull entered an order directing Plaintiff to file and serve her motion and brief on or before December 13, 2013. Magistrate Judge Kaull's order cautioned Plaintiff that failure to file her motion and brief would result in him entering a report and recommendation recommending to this Court that her case be dismissed for failure to prosecute. Plaintiff received Magistrate Judge Kaull's order on December 4, 2013. Plaintiff did not timely file her motion and brief or otherwise respond to the order. Therefore, on December 17, 2013, Magistrate Judge Kaull entered this report and recommendation for the dismissal of this case as a result of Plaintiff's failure to prosecute. As of this date, January 14, 2014, Plaintiff has not filed any objections to the report and recommendation.

Upon review of the above, it is the opinion of this Court that the report and recommendation should be, and is, hereby **ORDERED ADOPTED**. For the reasons more fully stated in the report and recommendation, this Court **ORDERS** that this matter be **DISMISSED WITH PREJUDICE** for failure to prosecute and for failure to comply with Magistrate Judge Kaull's order of November 26, 2013. The Court further **ORDERS** that this case be **STRICKEN FROM THE DOCKET OF THIS COURT**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any *pro se* parties and all counsel of record herein.

DATED: January 14, 2014



GINA M. GROH
UNITED STATES DISTRICT JUDGE